

**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF THE ADMINISTRATOR**

In the Matter of:

**Northeastern Hospital of
Philadelphia, Respondent.**

**PHMSA Case No. 06-0005-SBG-EA
DMS Docket No. PHMSA-2006-25712-3**

DECISION ON APPEAL

On August 23, 2006, the Chief Counsel of the Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT), issued a Default Order¹ to Northeastern Hospital of Philadelphia (Respondent) finding the company had knowingly committed one violation of the Hazardous Materials Regulations (HMR), 49 C.F.R. Parts 171-180. The Default Order, which is incorporated by reference, assessed a \$7,000 civil penalty.

Respondent, through its counsel, seeks leave to appeal the Default Order *nunc pro tunc*. Respondent not only failed to respond to the Notice, but has now attempted to file an untimely appeal. Respondent seeks reduction or elimination of the assessed civil penalty, as well as the late payment penalties and administrative charges, on the basis of "substantial financial hardship."² Respondent failed to file an appeal within twenty (20) days of its receipt of the Order.

PHMSA procedural regulations require a Respondent to file an appeal within twenty (20) days of its receipt of an order issued by the Chief Counsel. Respondent acknowledges that it failed to file a timely appeal and agrees that the photographs in the inspection report show bags

¹ DMS Docket Number PHMSA-2006-25712-1 at <http://dms.dot.gov>.

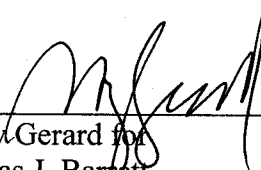
² Appeal, DMS Docket Number PHMSA-2006-25712-2 at <http://dms.dot.gov>.

of regulated medical waste that were not properly secured and were not marked in accordance with ASTM standards.

Respondent offered no explanation for its failure to respond to the Notice or for its late appeal. Respondent's appeal is untimely and is therefore denied.

Respondent must pay the \$7,000 civil penalty within 30 days of the date of this Decision on Appeal. Alternatively, Respondent may contact the Office of Chief Counsel to arrange for a payment plan; however, the first payment must be made within 30 days of the date of this Decision on Appeal. See Addendum A for payment information.

This Decision on Appeal constitutes the final administrative action in this proceeding.



Stacey Gerard for
Thomas J. Barrett
Administrator

Date Issued:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED